

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 856 - HB 976

February 19, 2023

SUMMARY OF BILL AS AMENDED (004251): Enacts the *James “Dustin” Samples Act* (Act) which creates a presumption that a firefighter diagnosed with post-traumatic stress disorder (PTSD) by a mental health professional as a result of responding to one or more incidents with specific factors was injured in the line of duty and such is compensable under workers’ compensation. Limits application of the presumption to a firefighter who is diagnosed with PTSD within one year of the firefighter’s final date of employment with the employing fire department.

Requires the Department of Labor and Workforce Development (DLWD) to establish and administer a grant program to mitigate the costs to an employer providing workers’ compensation for firefighters diagnosed with PTSD. Authorizes grants to be funded through any available sources, including state and federal funds. Employers must develop and implement a mental health awareness training program under certain parameters to qualify for the grant program. Requires the State Fire Marshal’s Office to verify employers that apply for the grants under this Act.

Requires the DLWD to provide on or before February 1 each year a report that includes an analysis of the number of claims brought forward, the portion of those claims that resulted in a settlement or award of benefits, the effect of this Act on costs to this state and its political subdivisions, and the balance of funds available for future claims. Requires the report to be provided to the Chairs of the State and Local Government Committee of the Senate and the Local Government Committee of the House of Representatives. Repeals the grant program on December 31, 2028.

The proposed legislation will become effective January 1, 2024, except for the purposes of promulgating rules which take effect upon becoming law.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures – Exceeds \$445,400/FY23-24
Exceeds \$890,700/FY24-25 through FY27-28
Exceeds \$445,400/FY28-29

Increase Local Expenditures – Exceeds \$445,400/FY28-29*
Exceeds \$890,700/FY29-30 and Subsequent Years*

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Other Fiscal Impact – Local governments will experience an increase in expenditures of amounts exceeding \$445,400 in FY23-24 and \$890,700 in FY24-25 and subsequent years. It is the intent of the legislation for the increase in expenditures to be covered through grants between January 1, 2024, and December 31, 2028, so that the net impact to local governments during the grant program is not significant.*

Assumptions for the bill as amended:

- The state of Maine passed a similar law in 2017. In 2021, the state's Workers' Compensation Board conducted an analysis comparing claims data prior to 2017 and after enactment of such law. The analysis showed that while the number of claims for firefighters increased, the average compensable amount decreased.
- From 2018 through 2021 the annual average number of workers' compensation claims filed by firefighters totaled 17. This is an annual increase of 11 claims for firefighters over the previous four-year average. The average amount per claim was \$16,195.
- Adjusting the Maine claims data to be comparable in Tennessee, it is assumed that claims will be approximately five times more in Tennessee (7,051,339 population) than in Maine (1,385,340 population).
- It is assumed that after the enactment of the Act, Tennessee will experience an increase of approximately 55 (11 claims x 5) workers' compensation claims for firefighters with PTSD related injuries.
- It is assumed Tennessee claim payments will be similar to those in Maine, resulting in an increase in local government expenditures of \$890,717.
- The proposed legislation creates a grant program to help mitigate the increase in workers' compensation claims payments for firefighter PTSD injuries. Funding for the grants can come from any sources, including state and federal.
- It is unknown what sources of funding are available for this purpose. It is assumed that state funds will be needed to cover the costs of the grants until the grant program is repealed on December 31, 2028. After that date, local governments will fund the expenditures associated with this legislation.
- DLWD will be able to manage the newly created grant program and submit the report within existing resources.
- The State Fire Marshal's Office can verify employers within existing resources.
- Local fire departments will be able to develop and implement training to meet the requirements of the grant program within existing resources.
- Due to the effective date of the presumption and grant program, only six months or one-half of expenditures will be incurred during FY23-24.
- Due to the repeal date of December 31, 2028, only six months or one-half of expenditures will be incurred by the state during FY28-29.
- The increase in local expenditures will exceed \$445,358 (\$890,717 x 50%) in FY23-24 and exceed \$890,717 in FY24-25 and subsequent years.
- Such expenditures will be funded by the state in the amounts exceeding \$445,358 (\$890,717 x 50%) in FY23-24, exceeding \$890,717 in FY24-25 through FY27-28, and exceeding \$445,358 (\$890,717 x 50%) in FY28-29.

- The increase in local government expenditures not funded by the state will exceed \$445,358 in FY28-29 and exceed \$890,717 in FY29-30 and subsequent years.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

IMPACT TO COMMERCE OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- The workers' compensation claims will be paid by local governments for the firefighters.
- While such firefighters will receive payments for PTSD injuries, the increase and the extent of treatment and services each firefighter will receive is unknown but assumed to not result in a significant increase in business revenue for such treatment and services.
- Any increase in revenue is estimated to result in a corresponding increase in expenditures for the cost to provide the services; therefore, the net impact to commerce is considered to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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